

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANDREA GOLDBLUM

Plaintiff,

v.

THE UNIVERSITY OF CINCINNATI,

Defendant

Case No. 1:19-CV-00398

Judge: DLOTT

OBJECTIONS TO REPORT AND
RECOMMENDATION (DOC#17)

Pursuant to Fed. R. Civ. P. 72, Plaintiff Andrea Goldblum (“Goldblum”) respectfully submits this Objection to the Report and Recommendation (R&R). (Doc#17.)

Goldblum objects to the R&R’s conclusion that the claim in Count II of the Complaint (the Title VII Retaliation Claim) should be dismissed.

Goldblum, as noted by the R&R Plaintiff brought a Title VII claim as an alternative in the event that UC argued that Plaintiff’s Title IX claims are preempted by Title VII. The R&R noted that while UC has not raised a pre-emption argument, this “particular issue remains unsettled in the Sixth Circuit.” See R&R at 13, citing *inter alia* *Arceneaux v. Vanderbilt Univ.*, 25 Fed. App’x 345 (6th Cir. 2001); *Whitson v. Tennessee*, E.D.Tenn. No. 1:16-cv-9, 2017 U.S. Dist. LEXIS 119602, at *22, n. 19 (July 31, 2017).

Goldblum is objecting solely for the purposes of retaining any applicable appellate rights and in the event that the relevant law in the Sixth Circuit regarding pre-emption changes while this case is pending. Consistent with this purpose, Goldblum repeats the argument made in the Opposition to the Motion to Dismiss: Congress has provided a “variety of remedies, at times overlapping, to

eradicate” employment discrimination. *N. Haven Bd. of Edn. v. Bell*, 456 U.S. 512, 535 n. 26 (1982), *citing Electrical Workers v. Robbins & Myers, Inc.*, 429 U.S. 229 (1976); *Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454 (1975); *Alexander v. Gardner-Denver Co.*, 415 U.S. 36 (1974). Accordingly, when a funding recipient retaliates against a person because she complains of sex discrimination, that violates Title VII and Title IX. *See Ivan v. Kent State Univ.*, 6th Cir. No. 94-4090, 1996 U.S. App. LEXIS 22269, at *2 n.10 (July 26, 1996) (unpublished table decision) (suggesting that employment discrimination claims may be pursued under both Title VII and Title IX).

Respectfully submitted,

/s/ Joshua A. Engel
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been electronically served via the ECF system this October 21, 2019 upon all counsel of record.

/s/ Joshua Engel
Joshua Adam Engel (0075769)